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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/546,347	04/07/2000	Brian M. Perry	2766.1001-001	2092

21005 7590 03/08/2005

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EXAMINER

SMITH, JEFFREY A

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/546,347

Applicant(s)

PERRY, BRIAN

Examiner

Jeffrey A. Smith

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 13-74 is/are pending in the application.
- 4a) Of the above claim(s) 62-74 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-11, 13-37 and 43-61 is/are allowed.
- 6) ☒ Claim(s) 38-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 April 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/24/00; 7/27/04.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 27, 2004 has been entered.

Election/Restrictions

Newly submitted claims 62-74 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Claims 62-74 are directed to a data importation method which is divergent and patentably distinct from the invention already constructively elected for prosecution. The invention recited in claims 62-74 are directed to subject matter classified in 707/10 which relates to data processing. The invention elected for prosecution is directed to subject matter classified in 705/28 which relates to inventory management. The

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search required for such invention is divergent from the search required for the invention already elected.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 62-74 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Information Disclosure Statement

The information disclosure statement filed July 24, 2000 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Particularly, the "Other Documents" (Refs. AR-AT) listed on the PTO-1449 filed July 24, 2000 have not been considered since no copies of these documents could be located in the file. All other references (Refs. AA-AC) listed on this PTO-1449 have been considered.

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Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 38-41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 38, lines 1-3: it is unclear in what sense the computer medium is "usable"; it is unclear how the code itself performs the steps recited in the body of the claim. It appears that the claim should reflect that the code causes a computer to perform such steps.

In claim 41, line 4: it is unclear in what manner the program itself performs the steps recited in the body of the claim. It appears that the claim should reflect that the program causes the processor to perform such steps.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement

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thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 38-40, and 42 rejected under 35 U.S.C. 101 for the following reasons:

Claims 38-40 purport to define a computer program product, however the preamble of claim 38 does not establish that the computer medium is readable or executable. Further the program code is recited to perform certain functions, rather than being recited to cause a computer to perform such functions. Accordingly, such "computer program product" has not been placed within a safe-harbor.

Claim 42: a data signal embodied in a carrier wave is transient in nature and cannot be reasonably considered to be a tangible article of manufacture. For examination purposes, the preamble has been interpreted as: "A computer readable medium having program code embodied therein for allowing users to monitor a supply chain, said program code comprising:".

Allowable Subject Matter

Claims 1-11, 13-37, 43-61 are allowed.

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Claims 38-41 would be allowable if rewritten or amended to overcome the rejections under 35 U.S.C. 112, 2nd paragraph, and 35 USC 101 set forth in this Office action.

Claims 42 would be allowable if rewritten or amended to overcome the rejection under 35 USC 101 set forth in this Office action.

Response to Arguments

Applicant's arguments, see Remarks, filed December 27, 2004, with respect to Huang and Muraoka have been fully considered and are persuasive.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bellini et al. (U.S. Patent No. 5,974,395) disclose a system and method for extended enterprise planning across a supply chain. Bellini et al. discloses a plurality of supply chain sites (col. 3, lines 62-65) and teaches that a system can relay an advance warning to other sites in the supply chain. The warning can define a local change in terms of its affect on demand at all tiers (col. 6, lines 40-51).

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Burdick et al. (U.S. Patent No. 5,625,816) discloses a method and system for generating product performance history. Burdick et al. discloses reformatting disparate data formats into a common format for storage in a database server (see Abstract).

Narisawa (JP 408235274 A) discloses an inventory management system. A reference information change instruction slip is issued in the case of the shortage of items or excessive inventory (see English translation abstract).

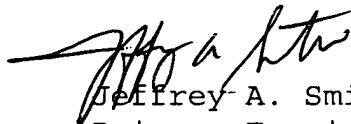
Dilger, Karen Abramic: "From ship to shore"; Manufacturing Systems, v17, n2, p83-90; Feb. 1999 teaches that "[a]llerts are like supply chain smoke alarms that signal when something is out of tolerance".

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey A. Smith whose telephone number is 703-308-3588. The examiner can normally be reached on M-F 6:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 703-308-1344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jeffrey A. Smith
Primary Examiner
Art Unit 3625

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